

Docket No.: 320528294US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Chen et al.

Allowed: February 25, 2009

Application No.: 10/840,225

Confirmation No.: 9671

Filed: May 7, 2004

Art Unit: 2621

For: APPARATUS FOR RETRIEVING
DATA FROM DETACHABLE OPTICAL
DRIVER

Examiner: S. Y. Hasan

APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION
UNDER 37 C.F.R. § 1.705(B)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests reconsideration of the patent term adjustment indicated on the Issue Notification of June 10, 2009.

(1) Applicant is including the fee set forth in 37 C.F.R. § 1.18(e). Please charge any deficiencies or credit any overpayment to our Deposit Account No. 50-0665, under Order No. 320528294US from which the undersigned is authorized to draw.

(2) Statement of Facts

(i) Correct Patent Term Adjustment and Bases for Adjustment

The correct patent term adjustment is 1,018 days. The PTO's calculated patent term adjustment is 715 days. Applicant is entitled to an additional 303 days of patent term adjustment.

The PTO properly accounted for the delay under 35 U.S.C. § 154(b)(1)(A), referred to as the "A delay." The A delay is 775 days.

The PTO failed to properly account for the delay under 35 U.S.C. § 154(b)(1)(B), referred to as the "B delay." The B delay is 409 days.

The PTO failed to properly account for the overlap under 35 U.S.C. § 154(b)(2)(A) in the A delay and the B delay. The overlap is 106 days.

The PTO properly accounted for the reduction in patent term adjustment under 35 U.S.C. § 154(b)(2)(C). The reduction is 60 days.

The correct patent term adjustment is the sum of the A delay and the B delay minus the overlap and minus the reduction. Thus, the correct patent term adjustment is $775 + 409 - 106 - 60$, which is 1,018 days.

(ii) Relevant Dates

A Delay		
Filing Date + 14 months	5/7/2004	↓
First Office Action	8/21/2007	775
Total		775

B Delay		
Filing Date + 3 Years	5/7/2004	↓
Issue Date/1st RCE filed	6/19/2008	409
Total		409

Overlap		
Total		106

Reduction		
Non-Final Office Action	8/21/2007	↓
Reply	12/21/2007	30
Final Office Action	3/19/2008	↓
Reply	6/19/2008	0
Non-Final Office Action	7/22/2008	↓
Reply	11/21/2008	30
Total		60

(iii) Terminal Disclaimer

The patent is not subject to a terminal disclaimer.

(iv) Failure to Engage in Reasonable Efforts

Applicant is not contesting the reduction in patent term adjustment of 60 days as accounted for by the PTO that are "deemed" to be a failure to engage in reasonable efforts under 37 C.F.R. § 1.704. There were no circumstances constituting a failure to

engage in reasonable efforts to conclude processing or examination of the application under 37 C.F.R. § 1.704.

Dated: August 31, 2009

Respectfully submitted,

By _____

Aaron J. Poledna

Registration No.: 54,675
PERKINS COIE LLP
P.O. Box 1247
Seattle, Washington 98111-1247
(206) 359-3982
(206) 359-7198 (Fax)
Attorney for Applicant